

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Yanjiao Chen	Team: Team # 3	CCRB Case #: 201308105	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 08/23/2013 3:51 PM	Location of Incident: In front of § 87(2)(b)	Precinct: 01	18 Mo. SOL 2/23/2015	EO SOL 2/23/2015	
Date/Time CV Reported Tue, 09/03/2013 1:00 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 09/03/2013 1:00 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Vitaliy Zelikov	01346	936353	CW T TF
2. POM Jonathan Metelus	14396	950883	001 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM John Shapiro	12753	949655	001 PCT
2. POM Tyrone Cassara	29707	950172	001 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Vitaliy Zelikov	Force: Sgt. Vitaliy Zelikov used physical force against § 87(2)(b)	§ 87(2)(b)
B.SGT Vitaliy Zelikov	Discourtesy: Sergeant Vitaliy Zelikov spoke rudely to § 87(2)(b)	§ 87(2)(b)
C.POM Jonathan Metelus	Discourtesy: PO Jonathan Metelus spoke rudely to § 87(2)(b)	§ 87(2)(b)

Case Summary

On September 3, 2013, § 87(2)(b) filed this complaint with the CCRB in-person.

On August 23, 2013, at around 3:31 p.m., § 87(2)(b) got into a verbal dispute with Traffic Enforcement Agent (TEA) Trevigno who was summoning § 87(2)(b) for a parking violation. TEA Trevigno called for additional units, falsely accusing § 87(2)(b) of assaulting her, which has been referred to IAB under case no. 201308526. Sgt. Vitaliy Zelikov of Manhattan Traffic Task Force responded to the call, and the following allegations resulted from the incident:

Allegation A: Force – Sgt. Vitaly Zelikov used physical force against § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation B: Discourtesy – Sgt. Vitaly Zelikov spoke rudely to § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation C: Discourtesy – PO Jonathan Metelus spoke rudely to § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

On April 28, 2014, this case was reassigned from Inv. Evelis Otero to the currently undersigned investigator.

Mediation was not presented to § 87(2)(b) because of his arrest from this incident.

Results of Investigation

Video Footage

A total of three videos were obtained in relation to this incident – two from surveillance cameras, and one from Youtube.com. Only one of the surveillance footage videos captures the interaction between the officers and § 87(2)(b). Therefore, only one surveillance video and the Youtube.com video are being summarized below.

Video # 1 (Youtube.com)

One of the witnesses at the scene, whose name the investigation has been unable to determine any further than his nickname “B”, recorded the incident and uploaded the footage onto Youtube.com. The recording is uploaded in IA # 3. The audio and visual elements in the footage are transcribed below. The entire recording lasts for two minutes and thirty seconds.

00:00 through 00:05 - § 87(2)(b) is kneeling and in the process of being taken to the ground by PO Shapiro and Sgt. Zelikov, who are on the left and right, respectively. § 87(2)(b) (black male) is standing very close to the officers. PO Shapiro is holding § 87(2)(b) back while Sgt. Zelikov pulls § 87(2)(b) left arm behind his back. PO Shapiro is heard saying, “Just go to the ground.” Once § 87(2)(b) is brought to the ground face-first, he is heard saying, “Oh shit,” and seen using his right arm to brace himself as he is brought to the ground.

00:05 through 00:10 - PO Shapiro kneels on the ground and grabs § 87(2)(b) right arm. He then pulls out § 87(2)(b) right arm without incident and places it behind his back. § 87(2)(b) PO Shapiro handcuffs § 87(2)(b) right wrist. Sgt. Zelikov forcefully slams his knee on § 87(2)(b) back creating an audible thud-like sound upon impact. § 87(2)(b) cries out “Oh shit. Oh God,” when Sgt. Zelikov knees him in the back. Sgt. Zelikov holds § 87(2)(b) left arm behind his back, and repeatedly pulls on § 87(2)(b) left hand and thumb.

00:10 through 00:30 - § 87(2)(b) has gone off camera. Sgt. Zelikov is heard saying something slightly inaudible to § 87(2)(b) possibly to the effect of, “Fuck me up.” However, the specific wording is unclear. § 87(2)(b) immediately replies, “I never said I was going to fuck you up.” § 87(2)(b) is heard arguing with a female, likely TEA Trevigno, saying “Honestly, you see what you caused? You see what you caused, right?” PO Shapiro fully handcuffs § 87(2)(b) Sgt. Zelikov rolls § 87(2)(b) into a seated position onto the edge of the curb and walks off camera.

00:30 through 01:05 - § 87(2)(b) continues to argue with TEA Trevigno, and § 87(2)(b) repeatedly shouts out “fat bitch” towards TEA Trevigno. PO Shapiro calmly asks § 87(2)(b) to step back. He then rests his hands on § 87(2)(b) shoulders and calmly instructs him to calm down. § 87(2)(b) moves his body as if to stand up, but PO Shapiro maintains control of him. PO Shapiro then goes over the radio.

01:05 through 01:35 - § 87(2)(b) looks left, towards Sgt. Zelikov, and says “Yo! You! You!” An individual is heard saying, “§ 87(2)(b) relax.” § 87(2)(b) stops talking and looks away. Sgt. Zelikov enters the camera view and is walking towards § 87(2)(b) while saying, “Me what?” § 87(2)(b) then asks “You think you’re fucking tough?” Sgt. Zelikov walks off camera again, opens the driver's side door of § 87(2)(b) vehicle and retrieves something. Sgt. Zelikov is seen with a card in his hand before he closes the driver's side door. § 87(2)(b) says to Sgt. Zelikov, “Yo! Don't slam my door.” Sgt. Zelikov replies, “Shut up,” and walks off.

Video #2

§ 87(2)(b) provided surveillance footage from a nearby commercial establishment named Private Stock that depict the incident that occurred outside the storefront. The recording is uploaded in IA # 16. There is no audio. The visual elements of the footage are transcribed below. The recording lasts for seven minutes and fifty-three seconds.

00:00 through 03:43 - § 87(2)(b) is leaning against his vehicle and is speaking with § 87(2)(b) and “B” in front of Private Stock. TEA Trevigno is standing in front of § 87(2)(b) vehicle and another TEA (heretofore referred to as TEA1) walks off towards the vehicle parked across the street. TEA Trevigno makes a phone call on her cell phone.

03:43 through 04:27 - A unmarked vehicle pulls up and TEA Trevigno speaks with the driver, Sgt. Vitaliy Zelikov. § 87(2)(b) and “B” look over and watch TEA Trevigno’s conversation. Sgt. Zelikov steps out of his vehicle, faces towards § 87(2)(b) and is pointing at him. He and TEA Trevigno approach § 87(2)(b) Sgt. Zelikov and § 87(2)(b) speak to each other for several seconds before § 87(2)(b) smiling, speaks to § 87(2)(b) while taking a few steps towards § 87(2)(b) Sgt. Zelikov however pushes § 87(2)(b) back-first against the latter’s vehicle.

04:27 through 04:35 - § 87(2)(b) appears to be smiling and laughing as Sgt. Zelikov speaks. Sgt. Zelikov points towards TEA Trevigno before again pushing § 87(2)(b) is not moving. § 87(2)(b) takes a step towards Sgt. Zelikov, as if to speak with him but Sgt. Zelikov extends one arm towards § 87(2)(b) who in a response, takes a step back.

04:35 through 04:53 - Sgt. Zelikov turns his attention to § 87(2)(b) again, and talks to him. § 87(2)(b) is still smiling and laughing. Sgt. Zelikov grabs § 87(2)(b) left arm, but § 87(2)(b) attempts to pull away and then puts both hands up, as if surrendering. Sgt. Zelikov attempts to

grab § 87(2)(b) again, but the latter moves away. Sgt. Zelikov, while keeping his left arm extended to keep § 87(2)(b) against the vehicle, brandishes his asp with his right arm. § 87(2)(b) lowers his arms and continues to speak while pointing to the driver's side door of his vehicle. Using his left hand, Sgt. Zelikov turns § 87(2)(b) around and pushes him face forward onto the vehicle. § 87(2)(b) remains in this position, but turns his head to the right and speaks to § 87(2)(b) Sgt. Zelikov puts his asp away.

04:53 through 05:49 - Sgt. Zelikov tries to grab § 87(2)(b) right arm, but § 87(2)(b) moves his arm away. Sgt. Zelikov then goes over the radio. While still facing the vehicle, § 87(2)(b) takes off his suit jacket, watch, bracelet and tie and places the items on top of his vehicle. Sgt. Zelikov steps back from § 87(2)(b) and takes out his pepper spray. He says something to § 87(2)(b) as he points the pepper spray at him. PO Shapiro is seen running towards the location. Sgt. Zelikov looks back, sees PO Shapiro, turns back around and pushes § 87(2)(b) against the vehicle with both hands. PO Shapiro is seen going over the radio. Sgt. Zelikov twists and pulls § 87(2)(b) right arm behind his back. PO Shapiro approaches and grabs § 87(2)(b) left arm and pulls it behind his back. § 87(2)(b) does not resist. Once both hands are behind his back, Sgt. Zelikov releases his hold on § 87(2)(b) and guides § 87(2)(b) back. PO Shapiro remains holding both of § 87(2)(b) arms. Sgt. Zelikov and PO Shapiro both pull § 87(2)(b) and bring him to the ground and handcuff him. § 87(2)(b) is off-camera once brought to the ground. Sgt. Zelikov and PO Shapiro can still be seen partially.

05:49 through 07:53 - The officers roll § 87(2)(b) into a seated position on the curb. PO Shapiro remains by § 87(2)(b) Sgt. Zelikov walks away as a NYPD Traffic Enforcement vehicle arrives on the scene. PO Shapiro speaks with § 87(2)(b) and § 87(2)(b) steps back. Sgt. Zelikov walks towards § 87(2)(b) and says something to him. Afterwards, Sgt. Zelikov opens the driver's side door of § 87(2)(b) vehicle and retrieves a wallet. Afterwards, Sgt. Zelikov throws the wallet back into the vehicle and closes the driver's side door. PO Jonathan Metelus and PO Tyrone Cassara, approach and escort § 87(2)(b) off-camera, along with PO Shapiro.

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b)
- § 87(2)(b) is a § 87(2)(b)

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on September 3, 2013 (enc. C-1 – C-8), and his statement is summarized below.

On August 23, 2013, at approximately 3:51 p.m., § 87(2)(b) was standing in front of his workplace at § 87(2)(b) in Manhattan. His vehicle was illegally parked in front of “Private Stock.”

While standing outside, § 87(2)(b) observed two Traffic Enforcement Agents (TEAs) walking down the street. One of them, TEA Trevigno approached § 87(2)(b) who informed her that he would move his vehicle if he needed to do so, and that if there was no problem to grant him the courtesy to remain parked at the location. TEA Trevigno said to § 87(2)(b) “Get in your fucking car and move it.” § 87(2)(b) told TEA Trevigno that she did not have to speak to him in that fashion. TEA Trevigno replied, “Well now you’re getting a ticket.”

§ 87(2)(b) boss, § 87(2)(b) and a photographer from Houston, Texas, whom § 87(2)(b) only knows as “§ 87(2)(b)” both witnessed the entire incident. “§ 87(2)(b)” ultimately recorded part of this incident and uploaded the video onto Youtube.com.

TEA Trevigno attempted to scan § 87(2)(b) registration but he stopped her by covering the registration with his hand. TEA Trevigno moved to the front of § 87(2)(b) vehicle and pulled out her handheld device and attempted to write the summons, but § 87(2)(b) stopped her by placing a hand over her device. § 87(2)(b) never made any physical contact with TEA Trevigno. TEA Trevigno then accused § 87(2)(b) of assaulting her and told § 87(2)(b) that he was “going to jail. TEA Trevigno went over the radio and requested assistance, saying that she was a “ticket writer who had been assaulted by a man.”

Approximately fifteen minutes later, Sgt. Vitaliy Zelikov of Manhattan Traffic Task Force, who was identified via the investigation, arrived by himself to the location. TEA Trevigno informed Sgt. Zelikov that § 87(2)(b) had assaulted her. § 87(2)(b) remained standing by his vehicle, smiling, as he was expecting this situation to be resolved quickly. Sgt. Zelikov turned to § 87(2)(b) and said, “What the fuck are you smirking for?” § 87(2)(b) replied, “Excuse me,” and Sgt. Zelikov repeated, “What the fuck are you smirking for?” § 87(2)(b) explained that he was only smiling because he had no reason to be upset.

Sgt. Zelikov instructed § 87(2)(b) to “shut up” and asked for his driver’s license. § 87(2)(b) stated that his driver’s license was in his wallet, which was on the driver’s seat of his vehicle. He also stated that Sgt. Zelikov’s gestures were making him uncomfortable. § 87(2)(b) did not want to produce his license, and asked § 87(2)(b) to call for additional officers because he did not want to speak to Sgt. Zelikov. Sgt. Zelikov pushed § 87(2)(b) against his vehicle and again requested his driver’s license. § 87(2)(b) once again informed Sgt. Zelikov where his driver’s license was located. Sgt. Zelikov told § 87(2)(b) to “shut up,” and to turn around. § 87(2)(b) complied. Sgt. Zelikov then brandished his asp. He did not make any commands.

§ 87(2)(b) proceeded to take off his suit jacket, tie, bracelet and watch and loosened the top button of his shirt while saying, “I’m taking my stuff off because I know I’m going to jail.” Sgt. Zelikov put his asp away and took out his pepper spray and pushed § 87(2)(b) against the vehicle. PO John Shapiro of the 1st Precinct then arrived alone on foot. Sgt. Zelikov instructed PO Shapiro to bring § 87(2)(b) to the ground. Sgt. Zelikov placed an open palm on the back of § 87(2)(b) head/neck area and pushed him down while PO Shapiro kicked the back of § 87(2)(b) leg, so that he could lose his balance. Sgt. Zelikov and PO Shapiro then pushed § 87(2)(b) to the ground. § 87(2)(b) never resisted arrest.

While on the ground, Sgt. Zelikov slammed his knee onto § 87(2)(b) back and grabbed his hands. No directives were issued to § 87(2)(b) while he was on the ground. Sgt. Zelikov repeatedly grabbed and twisted § 87(2)(b) thumb, even though he was not moving or resisting. Afterwards, Sgt. Zelikov and PO Shapiro handcuffed § 87(2)(b). Sgt. Zelikov then left the location and § 87(2)(b) did not see him again. Approximately twelve additional unidentified officers responded to the location after § 87(2)(b) was handcuffed. § 87(2)(b) was then placed in a marked police vehicle, where he complained to his transporting officers, subsequently identified as PO Jonathan Metelus and PO Tyrone Cassara, of the 1st Precinct, that his handcuffs were too tight. PO Metelus and PO Cassara instructed § 87(2)(b) to “shut up” and informed him that he would be transported to the stationhouse within ten minutes.

Approximately thirty minutes later, § 87(2)(b) was still inside of the RMP at the incident location. § 87(2)(b) pleaded with PO Metelus and PO Cassara to loosen his handcuffs. PO Metelus touched § 87(2)(b) hands and realized that the handcuffs were indeed too tight and said, “Oh shit! Your hands are freezing cold.” § 87(2)(b) replied, “What? Did you think I was joking with you guys?” PO Metelus and PO Cassara then loosened § 87(2)(b) handcuffs. Afterwards, § 87(2)(b) was transported to the 1st Precinct stationhouse.

Witness: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) § 87(2)(b)
- § 87(2)(b) missed his scheduled appearance at the CCRB, and later refused to schedule an appointment with Inv. Otero. Thus, only his phone statement was obtained.

On September 23, 2013, § 87(2)(b) provided a phone statement (enc. D-7). His statement was generally consistent with that of § 87(2)(b) and is summarized below.

On August 23, 2013, at around 3:51, outside of § 87(2)(b) TEA Trevigno approached § 87(2)(b) and said, “Get in your car and move it right now.” § 87(2)(b) asked TEA Trevigno why she spoke to him in that fashion. TEA Trevigno told § 87(2)(b) “If you don't move it right now, I'm writing you a ticket.” § 87(2)(b) again told TEA Trevigno that she did not have to speak to him in that fashion. TEA Trevigno replied, “Too late. I'm writing you a ticket.” § 87(2)(b) covered his registration to stop TEA Trevigno from writing the ticket. § 87(2)(b) informed TEA Trevigno that he is a “grown man” and that she did not need to speak to him in that fashion. She replied, “You're going to get a ticket.” § 87(2)(b) moved away from the car and approached TEA Trevigno to speak with her again, at which point she stated, “You hit me. You're going to jail. I'm calling for backup.” § 87(2)(b) never touched TEA Trevigno.

§ 87(2)(b) who had been watching the entire incident unfold, thought TEA Trevigno was joking until she went over the radio and said, “A man just hit me. I've been assaulted.” § 87(2)(b) became nervous and considered walking away, but § 87(2)(b) who is his supervisor, ordered him to stay at the location. Sgt. Zelikov responded to the location shortly thereafter. TEA Trevigno pointed out § 87(2)(b) and Sgt. Zelikov approached § 87(2)(b) and said, “What the fuck are you laughing at?” § 87(2)(b) explained that he was not laughing and that he was only smiling. PO1 said, “What the fuck is so funny? License and registration.” § 87(2)(b) attempted to explain the situation but Sgt. Zelikov again asked for his license and registration and informed § 87(2)(b) that he was under arrest. PO1 ordered § 87(2)(b) to turn around and to put his hands on the car. § 87(2)(b) took off his suit jacket at this time. § 87(2)(b) believes that Sgt. Zelikov became afraid when he saw § 87(2)(b) removing his suit jacket, and thus brandished his asp. § 87(2)(b) told Sgt. Zelikov, “You better not hit me with that.” When Sgt. Zelikov pushed § 87(2)(b) towards the vehicle, PO John Shapiro arrived at the scene. Sgt. Zelikov and PO Shapiro took § 87(2)(b) to the ground and handcuffed him.

NYPD Statements:

Subject Officer: SGT. VITALIY ZELIKOV

- Sgt. Zelikov was § 87(2)(b)
- On August 23, 2013, Sgt. Zelikov worked between the hours of 2:03 p.m. and 11 p.m. as the Patrol Sgt.. He was working alone, in uniform, and in unmarked vehicle number 848.

Memo Book

Sgt. Zelikov's memo book entries pertaining to this incident (enc. F-1 – F-3) state verbatim that “at 4 p.m., responded to need assistance by traffic agent Trevigno, shield 1972, front of § 87(2)(b). re: agent being assaulted. At 4:38 p.m., one under by PO Shapiro, shield 12753 – one pct SoHo post, to one Pct. Transport by one pct. sector.”

CCRB Statement

Sgt. Zelikov was interviewed at the CCRB on January 15, 2014 (enc. F-4 – F-5). His statement is summarized below.

On August 28, 2013, at around 3:51 p.m., Sgt. Zelikov received a radio call about a Traffic Enforcement Agent (TEA) involved in an assault in progress. He responded to § 87(2)(b) and first spoke with the TEA agent who had put the call over, TEA Trevigno. § 87(2)(b) and three other male civilians, who seemed to know § 87(2)(b) were also at the scene. Sgt. Zelikov made sure that TEA Trevigno was okay. TEA Trevigno stated that she was about to write § 87(2)(b) a summons when he approached her, and struck her.

§ 87(2)(b) was standing next to his car, and Sgt. Zelikov approached him to ask what had happened. § 87(2)(b) was irate and was not providing clear answers. He seemed to be laughing off the situation, and was very non-compliant. Sgt. Zelikov then asked § 87(2)(b) for his license, but § 87(2)(b) refused to provide it. In response, Sgt. Zelikov tried to retrieve the license himself. As he was turning § 87(2)(b) around, § 87(2)(b) became very combative. § 87(2)(b) initially had his hands on the roof of the car, but as soon as Sgt. Zelikov reached towards § 87(2)(b) pockets, § 87(2)(b) turned around and very quickly removed his jacket, and raised his hands in a fighting stance. Sgt. Zelikov never had the chance to frisk § 87(2)(b).

§ 87(2)(b) was much larger than Sgt. Zelikov, who had taken out either his nightstick or his mace, and put his hands up in front, to gain space, just in case § 87(2)(b) intended to fight. That was when PO John Shapiro came running over. At that point, Sgt. Zelikov holstered his night stick. PO Shapiro tried to grab onto § 87(2)(b) arms, but § 87(2)(b) was flailing his arms, and swining them around. § 87(2)(b) was instructed numerous times to place his hands behind his back, but he refused to comply. Finally however, PO Shapiro and Sgt. Zelikov were able to get § 87(2)(b) to the ground without any difficulty. While on the ground, § 87(2)(b) was still tensing his arms to prevent them from being handcuffed, but Sgt. Zelikov was able to effectively handcuff § 87(2)(b) without significant incident. After § 87(2)(b) was handcuffed, PO Shapiro called for transport to bring § 87(2)(b) to the stationhouse. Sgt. Zelikov followed the transport vehicle to the stationhouse where he an ambulance for both himself and § 87(2)(b) who was complaining about his hand.

Sgt. Zelikov denied ever using profanity during the incident, specifically denying ever saying “What the fuck are you smirking about?” He also denied slamming his knee into § 87(2)(b) back while the latter was on the ground. Sgt. Zelikov was on the scene for less than twenty-five minutes. He never heard § 87(2)(b) state that his handcuffs were too tight, or hear any officer say “oh shit, your hands are freezing cold.”

During the interview, Investigator Otero showed Sgt. Zelikov video footage from the incident. Video #2 confirmed that Sgt. Zelikov took out his asp, but within seconds, holstered it. It also confirmed that he then took out his pepper spray, which Sgt. Zelikov explained in his interview was because he did not know if § 87(2)(b) was prepared to fight. Regarding Video #1, at around 1:09, which depicts Sgt. Zelikov with his knee on § 87(2)(b) Sgt. Zelikov described the maneuver as for his own leverage and to keep § 87(2)(b) down on the ground.

Witness Officer: PO JOHN SHAPIRO

- *PO Shapiro was § 87(2)(b)*
- *On the day of the incident, PO Shapiro was assigned to the Spring and Greene Streets foot post within the confines of the 1st Precinct. He worked alone in uniform from 3 p.m. to 11:35 p.m.*

Command Log

PO Shapiro recorded § 87(2)(b) arrest at 4:55 p.m., and stated the charge as assault in the third degree (enc. I-7).

Arrest Report

PO Shapiro stated in § 87(2)(b) arrest report (arrest # § 87(2)(b) (enc. I-2 – I-4) that “arrest officer is informed by traffic agent Trevigno tax number 341938 that defendant did cover vehicle registration with his hand to prevent her from writing a parking summons. At time of arrest, defendant flared his arms and resisted by not letting arresting officer rear handcuff him.”

Criminal Court Complaint

PO Shapiro stated that § 87(2)(b) “intentionally attempted to prevent a police officer...from effecting an authorized arrest of himself.” (enc. I-5)

Memo Book

PO Shapiro’s memo book entries pertaining to this incident (enc. E-1 – E-5) state verbatim that “at 3:45 p.m., 10-92C (arrest) at § 87(2)(b).”

CCRB Statement

PO Shapiro was interviewed at the CCRB on December 27, 2013 (enc. E-4). His statement was generally consistent with that of Sgt. Zelikov, and is summarized below.

On August 23, 2013, at approximately 3:45 p.m., PO Shapiro received a radio run regarding the assault of a traffic enforcement agent at § 87(2)(b) PO Shapiro immediately responded to the location.

Upon arriving, he observed Sgt. Vitaliy Zelikov attempting to arrest § 87(2)(b) and Sgt. Zelikov appeared to be struggling. § 87(2)(b) had taken off his suit jacket as Sgt. Zelikov attempted to grab his arms to handcuff him. § 87(2)(b) appeared as if he was going to “square off” with Sgt. Zelikov as he took off his suit jacket. PO Shapiro could not recall seeing Sgt. Zelikov brandishing his asp or pepper spray.

PO Shapiro assisted Sgt. Zelikov with handcuffing § 87(2)(b) They ordered § 87(2)(b) to stop resisting and to put his hands behind his back, but § 87(2)(b) was unresponsive and continually flared his arms. § 87(2)(b) was agitated and told the officers that he had not done anything. § 87(2)(b) was taken to the ground, and while on the ground, § 87(2)(b) tucked his arms underneath him. PO Shapiro could not recall seeing Sgt. Zelikov kneeling § 87(2)(b) on the back. PO Shapiro could not recall whether § 87(2)(b) hands or thumb were twisted during the handcuffing process. PO Shapiro did recall though that they pulled § 87(2)(b) arms out from underneath him and handcuffed him in less than a minute. § 87(2)(b) maintained an agitated demeanor until he was placed into a patrol vehicle. No additional officers responded to the location until after § 87(2)(b) was handcuffed.

PO Shapiro did not hear Sgt. Zelikov using profanity towards § 87(2)(b) during this incident, or specifically say any derivation of the word “fuck.” PO Shapiro could not recall hearing § 87(2)(b) complaining about his handcuffs being tight or about numbness to his hands, nor did he hear an officer say, “Oh shit! Your hands are freezing cold.”

During the interview, PO Shapiro viewed Video #1 in its entirety. Upon being asked to explain Sgt. Zelikov’s knee on § 87(2)(b)s back at around 1:09 of the footage, PO Shapiro explained that it was a tactic used to prevent § 87(2)(b) from becoming a threat, as the latter was not yet handcuffed at that point.

From the footage, he identified the transporting officers as PO Metelus and PO Cassara of the 1st Precinct. PO Shapiro also admitted that Sgt. Zelikov had kned § 87(2)(b) on the back during the handcuffing process, but could not articulate why this was done.

Subject Officer: PO JONATHAN METELUS

- *PO Metelus was § 87(2)(b).*
- *On August 23, 2013, PO Metelus worked between 3 p.m. and 11:35 p.m. He was assigned to patrol sectors I and H with PO Tyrone Cassara, was in uniform, and driving in a marked police vehicle.*

Memo Book

PO Metelus's memo book entries pertaining to this incident (enc. G-1 – G-2) state verbatim that “at 3:55 p.m., backing one SoHo post 01 assault in progress at § 87(2)(b)

CCRB Statement

PO Metelus was interviewed at the CCRB on January 22, 2014 (enc. G-3 – G-4), and his statement is summarized below.

On August 23, 2014, PO Metelus arrived at § 87(2)(b) in Manhattan to backup an officer. § 87(2)(b) was already handcuffed, and was calm, albeit unhappy about being handcuffed. PO Metelus escorted § 87(2)(b) to the patrol car and transported him to the 1st Precinct stationhouse. He could not remember § 87(2)(b) making any complaints, or specifically about his handcuffs being too tight. PO Metelus denied using profanity with § 87(2)(b) or ever saying “Oh shit, your hands are freezing cold.” PO Metelus also did not hear any officer use profanity with § 87(2)(b) or any civilian at the scene.

Witness Officer: PO TYRONE CASSARA

- *PO Cassara was § 87(2)(b).*
- *On August 23, 2013, PO Cassara worked between the hours of 3 p.m. and 11:35 p.m. He was assigned to patrol sectors H and I with PO Jonathan Metelus, was in uniform, and driving in marked police vehicle number 4785.*

Memo Book

PO Cassara's memo book entries pertaining to this incident (enc. H-1 – H-4) state verbatim that “at 3:55 p.m., backing one SoHo post on needed additional units at § 87(2)(b) At 4:28 p.m., one under at § 87(2)(b) one SoHo post collar, transporting one male perp to first pct.”

CCRB Statement

PO Cassara was interviewed at the CCRB on April 2, 2014 (enc. H-5 – H-6). His statement was generally consistent with that of PO Metelus, and is summarized below.

On August 23, 2013, at around 3:51 p.m., PO Cassara responded to § 87(2)(b) where § 87(2)(b) was already handcuffed. PO Cassara recalled that it was PO Shapiro who called for additional units, but could not remember if there were any other officers at the scene. § 87(2)(b) was upset over the circumstances that led to his arrest, and was saying “this is ridiculous.”

PO Cassara and PO Metelus led § 87(2)(b) to their patrol vehicle. PO Cassara did recall § 87(2)(b) complaining about his handcuffs being too tight, and that PO Metelus loosened the handcuff for § 87(2)(b). PO Cassara denied hearing any officer use profanity towards § 87(2)(b) or specifically “oh shit, your hands are freezing cold.” Inside the patrol vehicle, § 87(2)(b) did calm down.

NYPD Documents

SPRINT Report

This incident generated SPRINT # § 87(2)(b) the report of which (enc. I-6) states that a traffic agent was assaulted at the location. Emergency Medical Services were called because the traffic agent had complained about a hand injury, and the perpetrator had complained about chest pain.

Arrest for Incident and Disposition

- As of May 8, 2014, there was no record of § 87(2)(b) arrest from this incident in Office of Court Administration records (enc. J-1).

Status of Civil Proceedings

- As of May 14, 2014, § 87(2)(b) has not filed a notice of claim with New York City in regards to this case (enc. L-14).

§ 87(2)(b)

■

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (enc. A-4).

Subject Officers CCRB History

- Sgt. Vitaliy Zelikov has been a member of the service for nine years, and there is one substantiated allegation against him (enc. A-1 – A-2):
 - In case no. 201103208, he was substantiated for an abuse of authority allegation. The Board recommended Charges, while the NYPD chose to not prosecute.
- PO John Metelus has been a member of the service for two years and there are no substantiated CCRB allegations against him (enc. A-3).

Conclusion

Identification of Subject Officers

Sgt. Vitaliy Zelikov and PO Jonathan Metelus confirmed their interaction with § 87(2)(b)

Allegation Not Pleaded

§ 87(2)(b) never alleged that any officer said to him “You think you’re fucking tough,” despite such a statement being audible at around 1:09 of Video #1. Although this statement’s speaker is not immediately obvious, the investigation determined that § 87(2)(b) was the one who

made it. His moving lips correspond to the quote, and his turning his head away corresponds to the sound change of the quote.

Investigative Findings and Recommendations

Allegation A: Force – Sgt. Vitaly Zelikov used physical force against § 87(2)(b)

§ 87(2)(b) alleged that Sgt. Zelikov slammed his knee onto § 87(2)(b) back while § 87(2)(b) was already on the ground.

Sgt. Zelikov denied using unnecessary physical force against § 87(2)(b) during the incident, specifically, he stated he never slammed his knee onto § 87(2)(b) back. Upon viewing Video #1, during which at 00:06, Sgt. Zelikov can be observed placing his knee on § 87(2)(b) back, Sgt. Zelikov described the maneuver as for his own leverage and to keep § 87(2)(b) down on the ground.

PO Shapiro also explained, upon viewing the video clip, that Sgt. Zelikov's knee was a tactic used to prevent § 87(2)(b) from becoming a threat, as the latter was not yet handcuffed at that point.

Video #1, between 00:05 and 00:10, depicts PO Shapiro kneeling on the ground and pulling out § 87(2)(b) right arm and placing it behind § 87(2)(b) back without incident. § 87(2)(b) PO Shapiro handcuffs § 87(2)(b) right wrist. Sgt. Zelikov then forcefully slams his knee on § 87(2)(b) back creating an audible thud-like sound upon impact. In response to the force, § 87(2)(b) cries out "Oh shit. Oh God."

Patrol Guide Procedure 203-11 states that "only that amount of force necessary to overcome resistance will be used to effect an arrest." (enc. AA-2 – AA-3)

§ 87(2)(b), § 87(2)(g)

Allegation B: Discourtesy – Sgt. Vitaly Zelikov spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that Sgt. Zelikov said a derivation of the word "fuck" to him during the incident.

At 00:16 of Video #1, § 87(2)(b) states "I didn't say I was gonna fuck you up" in response to Sgt. Zelikov's barely discernible statement in which something along the lines of "fuck me up" is heard.

Sgt. Zelikov denied using any profanity towards § 87(2)(b) during the incident, and PO Shapiro corroborated his statement. Upon reviewing Video # 1, Sgt. Zelikov could not recall what he was saying to § 87(2)(b) at 00:16.

Patrol Guide Procedure 203-09 states that an officer is required to be courteous and respectful when interacting with the general public (enc. AA-1).

In spite of Sgt. Zelikov's own statement being unclear, § 87(2)(b) response indicates that Sgt. Zelikov had stated something to the effect of "fuck me up." At this point, § 87(2)(b) was already on the ground and compliant. Sgt. Zelikov was in control of § 87(2)(b) left hand, and PO Shapiro was handcuffing § 87(2)(b) right hand. The situation was in no way a stressful one, making Sgt. Zelikov's use of any profanity unnecessary.

§ 87(2)(b), § 87(2)(g)

Allegation C: Discourtesy – PO Jonathan Metelus spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that PO Metelus said “Oh shit!” to him during the incident.

PO Metelus denied the allegation. PO Cassara also denied ever hearing PO Metelus say such during the incident, though he did admit that PO Metelus loosened § 87(2)(b) handcuffs upon § 87(2)(b) request. There were no witnesses for the allegation.

§ 87(2)(b), § 87(2)(g)

Team: 3

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date